95-349

Supreme Court, U.S.
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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1995

EDWARD SIGUEL

Petitioner, Pro Se

v.

ALLSTATE LIFE INSURANCE COMPANY

Respondent on Petition for Writ of Certiorari to the United States Court of Appeals for the First Circuit

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RESPONDENT'S BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether the Petitioner has raised a "special and important reason" to grant a writ of certiorari.
2. Whether Edward Siguel, a pro se plaintiff, was entitled to have a lawyer at trial assist him as a pro se plaintiff.
3. Whether Edward Siguel established that his father's death (the insured) was precipitated by an accident.
4. Whether Edward Siguel was prejudiced by the District Court's decision to allow Allstate Life Insurance Company to withdraw admissions.

LIST OF PARTIES

Petitioner, Edward Siguel, is an individual and a resident of Brookline, Massachusetts.

Respondent, Allstate Life Insurance Company is a wholly-owned subsidiary of Allstate Insurance Company, which in turn, is a wholly-owned subsidiary of The Allstate Corporation, a Delaware corporation. The stock of The Allstate Corporation is publicly traded. The following are non-wholly-owned subsidiaries of Allstate Life Insurance Company:

After Six Holding Corporation
Cardiologic Systems, Inc.
Saugatuck II Cellular Investment Corp.
Science Center Associates
Washington Business Park Associates
Scripps Center Associates

STATEMENT OF THE CASE

PROCEDURAL HISTORY

The original plaintiff, Berta Siguel, commenced this action on March 28, 1991, seeking to recover for an alleged breach of contract and alleged violation of G.L. c. 93A based upon the denial by the defendant, Allstate Life Insurance Company ("Allstate"), of her claim as a beneficiary under an accidental death and dismemberment insurance policy issued by Allstate to her deceased husband.[1] Petitioner's Appendix at D.2-3.

Together with the Summons and Complaint,

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[1] While several amended complaints were filed, the claims remained essentially the same. Berta Siguel was represented by her son, Edward Siguel, who was eventually substituted as plaintiff and pursues this appeal.

Interrogatories and document requests, Berta Siguel served a first request for admissions upon Allstate. Petitioner's Appendix at B-2. The parties entered into an agreement enlarging the time within which Allstate might respond to Berta Siguel's discovery, and Allstate's attorneys believed that this included the request for admissions. Petitioner's Appendix at B-2. Siguel subsequently took the position that the requests were deemed admitted because Siguel did not believe admissions were a part of discovery. Petitioner's Appendix B-2. The parties were unable to resolve the dispute as to whether the extension to respond to discovery included admissions and accordingly, on June 24, 1991, Allstate filed a Motion to Withdraw Admissions and for an

Extension of Time for Responding to the Plaintiff's Request for Admissions. Petitioner's Appendix A-7-9. This Motion was allowed by Magistrate Bowler on September 18, 1991. Petitioner's Appendix B-2. Edward Siguel objected to Magistrate Bowler's September 18, 1991 order. Petitioner's Appendix at K-5. Judge Keeton overruled Edward Siguel's objections by order dated May 7, 1993. Appellant's Appendix at E-5. Edward Siguel appealed from that portion of the May, 7, 1993 decision to the United States Court of Appeals for the First Circuit. The United States Court of Appeals upheld Judge Keeton's order in an opinion dated March 10, 1995.

In 1992, Allstate moved to disqualify Edward Siguel as the plaintiff's attorney due

to his intention to act as trial attorney, fact witness and expert witness. Petitioner's Brief at p. 4. Edward Siguel was ordered to obtain co-counsel. Appendix at B-. Allstate's motion for disqualification was allowed on January 8, 1993. Petitioner's Appendix K-4.

On July 7, 1993, Berta Siguel filed a motion to Substitute Edward Siguel as Plaintiff. Petitioner's Appendix K-5. The Court allowed the Motion on August 18, 1993, but required Edward Siguel to be represented by counsel. Petitioner's Appendix K-5.

Judge Keeton allowed both Paul Rufo's motion to withdraw as attorney for Edward Siguel, and Edward Siguel's motion to appear, pro se and on October 20, 1993 the District Court Clerk was directed to change the

caption of the case to reflect the fact that Berta Siguel was no longer a party to the action. Petitioner's Appendix K-5. During the hearing on the motions to withdraw and to appear pro se, Judge Keeton stated that he never allowed a combination of a lawyer and a pro se. Appellant's Brief p.4. Edward Siguel appealed this ruling to the Court of Appeals for the First Circuit. The Court of Appeals ruled that Judge Keeton did not err in prohibiting Edward Siguel from appearing at trial as both lawyer and a pro se. Petitioner's Appendix A-9.

On January 27, 1994, before Allstate had presented its case and pursuant to Rule 52(c), Judge Keeton entered judgment in favor of Allstate on the breach of contract claim. The parties stipulated that all remaining

claims would be dismissed on the condition that they might be asserted again at a new trial only if a higher court determines that a new trial should be granted on the breach of contract claim. Petitioner's Appendix G-1. Edward Siguel appealed to the United States Court of Appeals for the First Circuit the entry of judgment in favor of Allstate on the breach of contract claim. The First Court affirmed the District Court decision in an opinion dated March 10, 1995. Petitioner's Appendix A-10. Edward Siguel filed a petition for reconsideration and the Court of Appeals denied the petition. Appellant's Appendix H-1. It is from this denial that Edward Siguel petitions this Court for a Writ of Certiorari.

FACTUAL BACKGROUND

In or about 1986, Allstate sent to the appellant, Edward Siguel, an accidental death and dismemberment policy (the "Policy"). Edward Siguel was living in Massachusetts. Edward Siguel filled out the enrollment form for the Policy naming his father as the insured and his mother as the beneficiary. Petitioner's Appendix at A-2. Edward Siguel's alleged that his father, while in Argentina, sustained an injury to his arm. Petitioner's Appendix at A-2. While Allstate does not contest the fact that the Policy was in force at the time of Isidoro Siguel's death, the fact that the decedent lived and died in Argentina significantly hindered Allstate's investigation of the claim.

The Policy provided for the payment of

certain benefits in the event that the insured suffered one of a number of defined injuries as a result of an accident. The Policy is included in the Appellant's Exhibits at pp. 100001-100004. Essentially, Allstate agreed that if the insured died within 365 days of and as the result of an accident, directly and independently of all other causes, Allstate would pay the beneficiary the sum of $60,000. If the accident occurred on a public conveyance, the benefit paid would be $200,000. (The Policy's provisions concerning accidental dismemberment are not implicated in this action).

Specifically the Policy provided:

> If an insured person is injured in an accident not covered by Part I or Part II [which provide for the

> payment of a higher benefit for certain types of accidents] and not otherwise excluded in the policy [Allstate] will pay the applicable benefit specified in part three of the schedule of insurance[$60,000].

Petitioner's Appendix A-3. Part I provided that:

> If an insured person is injured while occupying, as a passenger,a public conveyance . . . [Allstate] will pay the applicable benefit specified in Part I of the Schedule of insurance [$200,000].

Petitioner's Appendix A-3. Part II has never been argued as being applicable to this case.

The Policy defines "Injured" or "Injury" as meaning:

> bodily injury caused by an accident occurring while the insurance is in full force and effect which injury results within 365 days after the date of the accident, directly and independently of all other causes, in death or any other "Loss" covered by the Policy.

Petitioner's Appendix A-3. (emphasis added).

Thus, the Policy provided, inter alia, that Allstate would pay certain amounts upon the death of the insured only if the death was the result of a bodily injury caused by an accident, and was the result "directly and independently of all other causes" of the accident.

At some point in time before his death, Isidoro Siguel (the insured) was bumped on the arm while getting off of a public transportation bus in Argentina. Petitioner's Appendix at A-2.

Several weeks or days later, Isidoro Siguel, under his own power, went to the outpatient clinic of Hospital Fernandez, in Argentina. At the clinic, he was treated by Dr. Pattin who apparently drained an abscess

on Isidoro Siguel's left forearm. Petitioner's Appendix at A-2.

The insured died later that day, never having left the hospital. Petitioner's Appendix at A-2.

Edward Siguel, on behalf of the beneficiary, Berta Siguel, filed a claim with Allstate, requesting that a payment of either $60,000 or $200,000 be made pursuant to the Policy. Petitioner's Brief at p. 4.

Allstate subsequently denied Berta Siguel's claim. Petitioner's Brief at p. 4.

ARGUMENT

I. THE PETITION FOR CERTIORARI HOULD BE DENIED BECAUSETHERE ARE NO "SPECIAL OR IMPORTANT ISSUES" RAISED BY THE PETITIONER

The Petitioner Edward Siguel, has failed to allege a "special and important" reason to

grant a writ of certiorari. Rule 10(1)(a) of the Supreme Court Rules clearly states that "special and important" reasons include instances where a "United States Court of Appeals has rendered a decision in conflict with the decision of another United States Court of Appeals, or has so far departed from the accepted and usual course of judicial proceedings or sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision" Aside from a rambling recitation of personal disagreement with the Court of Appeal's and the District Court's decision, the petitioner has failed to specifically address the "special and important reason" why the petition for writ of certiorari should be granted and most importantly, has not

provided a legal argument that suggests that the First Circuit has rendered a decision in conflict with the decision of another United States Court of Appeals on the same matter. In short, the First Circuit's decision in this case does not conflict with any other United States Court of Appeals decision.

II. THE COURT OF APPEALS CORRECTLY DETERMINED THAT EDWARD SIGUEL WAS NOT ENTITLED TO HAVE A LAWYER ASSIST HIM AS A PRO SE PLAINTIFF.

The Court of Appeals determined that the District Court's denial of Siguel's request to employ a lawyer to aid him at trial was not in error. Edward Siguel's claim that he was denied the ability to have access to the Courts and was denied the ability to retain counsel is absurd. In fact, at the time Judge Keeton made the remark complained of,

Edward Siguel was represented by counsel. After Edward Siguel began prosecuting the action pro se, he could have retained counsel at any time. He merely had to give up his pro se status and his ability to act as trial counsel.

For all the foregoing reasons, the Court of Appeals clearly stated that Judge Keeton was not in error in prohibiting Edward Siguel from hiring co-counsel while acting as a pro se plaintiff and appearing as a witness. The Court of Appeals correctly held that 28 U.S.C. Section 1654 does not confer any right to "hybrid representation". Edward Siguel elected to discharge his attorney and proceed pro se. With this decision, Edward Siguel as then the trial attorney, and the attempts by him to suddenly introduce the need to retain

trial counsel, after dismissing his former counsel is incredible.

III. THE COURT OF APPEALS CORRECTLY DETERMINED THAT THE DISTRICT COURT DID NOT ERR IN FINDING THAT SIGUEL FAILED TO ESTABLISH THAT HIS FATHER'S DEATH WAS PRECIPITATED BY AN ACCIDENT.

The Court of Appeals for the First Circuit determined that Edward Siguel failed to establish a causal connection between an accident and his father's death. The Court of Appeals ruled that Judge Keeton was correct in 1) requiring Edward Siguel to show that his father's death was precipitated by an accident, 2) ruling that the issue of whether Edward Siguel's father expected to die was immaterial and 3) determining that there was no evidence that either the accident on the bus resulted in the abscess or that there was anything wrong with the way which the

draining procedure was performed. It must be noted that the Court of Appeals in writing it's opinion specifically discussed all of the accident theories alleged by Edward Siguel, including theories raised for the first time after the trial ended. Petitioner's Appendix at A4.

The Court of Appeals also concluded the District Court Judge Keeton was correct in requiring expert testimony to link the accident on the bus, or the draining of the abscess, to his father's death. The Court noted that Edward Siguel failed to cite any law in support of his proposition that expert testimony was not required and that the District Court could not demand expert testimony.

Edward Siguel simply failed to meet his

burden with respect to establishing a causal link between an identified accident and the death of his father.

IV. THE COURT OF APPEALS WAS PROPER IN RULING THAT EDWARD SIGUEL WAS NOT PREJUDICED BY THE DISTRICT COURT'S DECISION TO ALLOW ALLSTATE LIFE INSURANCE COMPANY TO WITHDRAW ADMISSIONS

The Court of Appeals for the First Circuit ruled that Edward Siguel was not prejudiced by the District Court's allowance of Allstate's motion to remove admissions. The Court critiqued Edward Siguel's "unavailing" claims of prejudice and properly determined that Mr. Siguel was on notice "soon after the case was initiated (less than three months after the complaint was filed) and quite a while before a trial likely would occur". The First Circuit held that District Court Judge Keeton did not err in determining

that Attorney Siguel was not prejudiced and not entitled to costs.

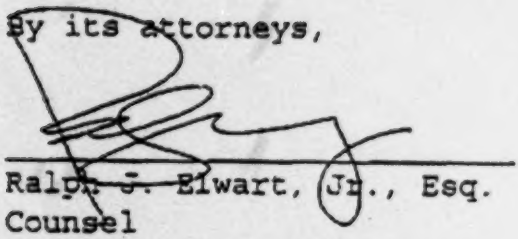
It must be noted that Edward Siguel's contemptuous act of agreeing to Allstate's request for an extension to respond to Siguel's Complaint and discovery and later contending that the extension agreement only concerned the answer, the interrogatories and the document requests, was the beginning of a pattern and practice by Edward Siguel whereby Mr.Siguel continually misstated facts, misinterpreted conversations and agreements, misapplied and misconstrued the law and misdirected the court and the lawyers involved with the case.

CONCLUSION

The United States Court of Appeals for the First Circuit and the United States

District Court's judgments and rulings are correct. After extensive review of all of Edward Siguel's claims and appeals, all meritless, both courts rejected his arguments. Moreover, the decision of the United States Court of Appeals for the First Circuit conflicts with no case cited by Edward Siguel and accordingly, there is no "special and important reason" that supports the granting of the Petition. For all the foregoing reasons, Respondent, Allstate Life Insurance Company, requests that the Petition for Writ of Certiorari be denied.

By its attorneys,



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